

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

UNITED STATES OF AMERICA

V.

MANUAL GONZALEZ

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**NO. 5:08CR36(2,4,5,&26)
(JUDGE FOLSOM)**

ORDER

Defendant, MANUAL GONZALEZ, moves this Court for a continuance of the above entitled criminal action on the grounds that additional time is needed to continue plea negotiations and to render effective assistance . Trial in this matter is current ly set for a criminal session of this Court in the Texarkana Division of the Eastern District of Texas, commencing on August 4, 2008. If a continuance is not granted, the Defendants’ right to due process will be violated. Counsel for the Government does not oppose the Defendants’ motion.

Rule 18 of the Federal Rules of Criminal Procedure and the Speedy Trial Act establish that a speedy trial and the prompt administration of justice are desirable ends that weigh against a continuance. Nevertheless, speed is neither paramount, nor the only consideration. Many other important values may conflict with the need for speed in the trial of a criminal case. Delay in trial that promotes the fairness of the trial and the purposes served by the trial, is delay well worth the administrative costs is may impose. Prompt justice must be fair, or it is not truly justice. “[A] myopic insistence upon expeditiousness in the face of a justifiable request for delay can render the right to defend with counsel an empty formality. *Ungar v. Sarafite*, 376 U.S. 575, 589 (1964); *Kirkpatrick v. Blackburn*, 777 F.2d 272, 278 (5th Cir. 1985), *cert. denied*, 476 U.S. 1178 (1986).

The ends of justice require this court to continue the above entitled criminal action, giving consideration to defense counsel’s assertion that additional time is needed to prepare for trial and

complete immigration proceedings. Also, counsel for Defendant has scheduled a pre-paid vacation for the week of August 4-8, 2008, and will be out of the country. The ends of justice outweigh the best interest of the public and the Defendant in a speedy trial served by taking this action. Title 18, United States Code, section 3161(h)(8)(A).


The Speedy Trial Act excludes from computation of the time between indictment and trial any delay resulting from the grant of a continuance, if the judge finds that the ends of justice served by granting a continuance outweigh the interest of the public and the defendant in a speedy trial. Title 18, U.S.C., section 3161(h)(8)(A). *See, United States v. Eakes*, 783 F.2d 499 (5th Cir.), *cert. denied*, 477 U.S. 906 (1986). It is so found, pursuant to Title 18, U.S.C., section 3161(h)(8)(B)(iv); and in the exercise of the Court's discretion, it is found that the motion for continuance should be granted. Accordingly, it is

ORDERED that the Defendants' motions for continuance should be, and are hereby **GRANTED**. It is further,

ORDERED that the pre-trial in this matter be reset to November 3, 2008 at 10:00 a.m., in Texarkana, Texas. Jury selection is scheduled for November 5, 2008 at 10:00 a.m. in Texarkana, Texas.

IT IS FURTHER ORDERED that the deadline for notifying the Court of any plea bargain or plea agreement entered into by the parties in this cause is October 15, 2008, at 5:00 o'clock p.m.

SIGNED this 25th day of July, 2008.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE